



United States Senate
WASHINGTON, D. C. 20510 - 3903

August 1, 2007

The Honorable Dirk Kempthorne
Secretary of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Kempthorne:

I trust we will reach a prompt accord with respect to my requests, repeated below, concerning the Roan Plateau and potential oil shale development in Colorado. The Bureau of Land Management's (BLM) critical role with respect to these land management decisions cannot be overstated. The agency manages 8.4 million surface acres and 27.1 million subsurface acres in Colorado. Much of that is leased for mineral development. It is, therefore, of utmost importance that we create the right framework for a more cooperative and collaborative working relationship between the Federal Government and the State of Colorado concerning development of these properties.

In that regard, I thank you for your prompt letter following our meeting last week. I appreciate your commitment to work with the State of Colorado as well as local elected officials and the public on energy development issues in Colorado, especially potential oil shale development and oil and gas development on and around the Roan Plateau.

Because of our shared histories in protecting the rights of States, I very much appreciated the following statements included in your letter:

Given my experience and background in State and local government, as well as in the Senate, I am keenly aware of the need to solicit State and local input before making Federal land use decisions. In order to meet our stewardship responsibilities, it is not only appropriate, but necessary, that we have a cooperative and productive relationship with States. I consider it a priority that the Federal Government recognize and coordinate with leasing or development actions being taken by the State and on private lands. I agree that we want and need continued and extensive involvement by the State of Colorado, as well as local government and the public.

Given our common understanding of that federal-state framework, I reiterate my request for a 120-day extension of time for the State of Colorado to review and comment on the Resource Management Plan (RMP) for the Roan Plateau. To date, the BLM has refused

to grant this reasonable request by the State of Colorado for an extension of time to review and analyze the proposed plan for drilling on and around the Roan Plateau. This is an important matter for Colorado, which, if handled properly, can help chart the positive federal-state framework outlined above. I therefore renew that request and, in the spirit of your letter, urge you to demonstrate the Department's willingness to "have a cooperative and productive relationship" with the State of Colorado by granting it.

Second, pending the outcome of that review, I request that the BLM refrain from proposing any new leasing within the Roan Plateau Planning Area (RPPA) until the State of Colorado has had a meaningful opportunity to review and comment on the RMP, and the BLM and the Department have answered critical questions raised by the State of Colorado including development on top of the Roan, revenue sharing under the Transfer Act and the cleanup of Anvil Points. Federal law gives you and the BLM broad discretion over whether to lease federal lands. Even though a Record of Decision has been signed, the Courts have made clear that the Agency is under no obligation to lease. *See, e.g., Duesing v. Udall*, 350 F.2d 748, 750-51 (D.C. Cir. 1965), cert. denied, 383 U.S. 912 (1966). Under the circumstances, a temporary moratorium on any leasing activity within the RPPA is appropriate.

I thank you for your commitment to extend the public comment period, if requested, for the draft Oil Shale and Tar Sands Program Programmatic Environmental Impact Statement (PEIS). The Department granted the State only two additional weeks to review the draft PEIS, not the 120 days requested by the Governor. Consequently, the State was forced to submit only preliminary comments on the draft PEIS. This 2000-page document will be the cornerstone of the Department's and the State's decisions with respect to commercial oil shale development in northwest Colorado, and therefore it is critical that the State have an adequate opportunity to review the PEIS before making recommendations concerning commercial leasing. I therefore request that the Department reconfirm that the State of Colorado will be granted an appropriate amount of time, as reasonably requested by the State, to review and comment on the draft PEIS.

At this point, I am respectfully informing you that I will not consent to further action by the Senate on President Bush's nominee, James Caswell, until I receive a commitment that the BLM will delay issuance of any leases on and around the Roan Plateau until the State of Colorado has had sufficient time to consider the Agency's proposed plans with respect to oil and gas drilling on the plateau. I remain hopeful that we can quickly resolve these management decisions so that Mr. Caswell can move expeditiously to a confirmation vote. However, these issues are of utmost importance to the future of Colorado, and I must insist on greater clarity with respect to how we move forward on the Roan Plateau and commercial oil shale development. Therefore, until I receive those assurances from you, as Secretary of Interior, I will withhold my consent to Mr. Caswell's nomination.

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I, too, am confident we can work together to resolve these and other important public lands issues in Colorado and the Nation. I would appreciate your further consideration of these very reasonable requests.

Sincerely,

A handwritten signature in dark ink, reading "Ken Salazar". The signature is written in a cursive, flowing style with a large initial "K".

Ken Salazar
United States Senator